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In re Application of :
Andrew Saxon et al :
Serial No.: 09/770,169 : PETITION DECISION
Filed: January 26, 2001 :
Attorney Docket No.: UC053.100A :

This is in response to the petition under 37 CFR 1.181, filed January 5, 2005, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

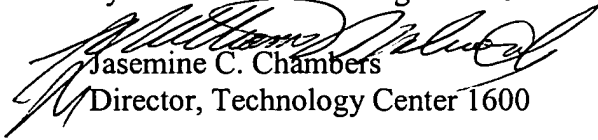
A review of the file history shows that the examiner mailed a first Notice to Comply with Sequence Rules on March 4, 2004, setting a one month extendable time period for compliance. Applicants submitted a first CRF sequence listing on April 1, 2004. The listing was found to contain compliance errors. Applicants were notified of the errors in a letter to comply mailed on June 22, 2004, which did not set a new time period but required applicants to reply within the extendable time period set in the previous Office action. Applicants replied anew on August 31, 2004, including a three month extension of time request and fee. The request for extension of time should have been for five months (as measured from March 4, 2004), however in view of the over two month delay by the Office in notifying applicants of non-compliance of the CRF submission, two months are waived. However, the sequence CRF submitted on August 31, 2004, still contained errors as evidenced by the Raw Sequence Listing Error Report dated September 8, 2004. In view of the error report a Notice of Abandonment was mailed to applicants on December 8, 2004, accompanied by the error report.

Applicants then filed this petition and a new copy of the August 31, 2004, amendment and sequence CRF with corrections as mandated by the Error Listing. Applicants argue that the submission of August 31, 2004, was a *bona fide* attempt at furthering prosecution and that the sequence listing was correct except for some sequence type identification errors which have now been corrected. Applicants argue that the examiner should have issued a new requirement for sequence compliance rather than a Notice of Abandonment in view of new errors in the sequence listing not discovered until the listing was submitted. Applicants are correct.

The petition is **GRANTED**. As applicants have submitted a now acceptable sequence listing with this petition the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.



Jasmine C. Chambers
Director, Technology Center 1600